IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 02 (S/S) 2007

Dr. Mahendra Nath Sharma
S/o Sri Bishambhar Dutt Sharma,
R/o house No. N-310, Shivalik Nagar,
B.H.E.L., Haridwar,
Tehsil & District Haridwar. .....Petitioner.

Versus

1. Chairman, B.H.E.L., Educational Management Board, Ranipur, Haridwar, District Haridwar.
2. Secretary, B.H.E.L, Educational Management Board, Ranipur, Haridwar, District Haridwar. .....Respondents.

Sri Lok Pal Singh, learned counsel for the petitioner.
Sri V.K. Kohli, learned Sr. Counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Lok Pal Singh, learned counsel for the petitioner and Sri V.K. Kohli, learned Senior Counsel for the respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

i. Issue a writ, order or direction in the nature of certiorari quashing the letter of retirement dated 22.12.2006 contained annexure no. 9 to this writ petition,

ii. Issue a writ, order or direction in the nature of mandamus commanding/directing the respondents to give extension of service up to the end of academic session i.e. 31st March 2007, to the petitioner and further be pleased to pay month to month salary to the petitioner,

iii. Any other relief, which this Hon'ble Court may deem fit and proper in the circumstances of the case, be passed in favour of the petitioner,

iv. Award the cost of writ petition to the petitioner.

Stand of the petitioner is that he joined his duties on the post of P.G. Teacher on 12.07.1976 in Vidhya Mandir Inter College, Sector I, B.H.E.L., Ranipur, Haridwar and had served the Institution for about 30 years. Vide order dated 27.07.2006, he was transferred by the respondents to another Institution, namely, Bal Bharti Senior Secondary School, Sector IV, B.H.E.L., Ranipur, Haridwar, though he was at the verge of retirement. In pursuance to the transfer order, the petitioner joined his duties at the new place of his posting. The respondent no. 2 issued a letter dated 04.11.2006 by which the petitioner was informed that he will be retired from service on 30th December 2006 after completing 60 years' of his age. The petitioner applied for extension of his services upto the end of the academic session i.e. upto 31st March 2007, however he was not granted extension till the end of academic session, consequently the petitioner preferred this writ petition.

So far the prayer no. 'i' is concerned, it is not disputed that the petitioner was asked to be retired after completion of 60 years' of his age and this Court do not find any merit in the writ petition to quash the order by which the petitioner has been directed to be retired after completion of 60 years' of age. So far the question of granting extension in the service is concerned, the respondents have filed their counter affidavit and in the counter affidavit, the respondents have stated that as per the provisions applicable to the Institution of respondents, the teachers serving in the Institution shall retire on the last day of

the month in which they complete 60 years' of their age. It is further stated that there are surplus teachers in EMB and the study of the students is not to be effected by the retirement of petitioner. Learned Sr. Counsel for the respondents has further submitted that the learned Single Judge of this High Court in writ Petition no. 01(ss)2004 Sr. Raj Kumar Kheman and others vs. State of Uttaranchal and others has already decided the controversy raised by means of this petition.

In any case, the prayer of the petitioner is that he may be permitted to continue till 31st March 2007. The intension of issuing orders under Intermediate Education Act is to permit the teachers to continue upto the end of that session so that after retirement of any teacher in mid session, the study of the students should not suffer. Firstly, the Regulations issued under Intermediate Education Act are not applicable in the Institutions which is, undoubtedly, unaided Institution and secondly, the respondents in their counter affidavit have categorically stated that they have surplus teachers in the Institution and retirement of the petitioner, after completion of 60 years' of age would not effect the study of the students. Further it is significant that according to the petitioner, the academic session would come to an end on 31st March 2007.

In the circumstances mentioned above, I so not find proper to pass any order directing the respondents to grant extension to the petitioner till 31st March 2007. The petition lacks merit, as such, is dismissed accordingly.

(M.M. Ghildiyal, J.)

March 8, 2007:
NCM: